



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 12, 1993

Mr. Rodman C. Johnson
Staff Attorney
Legal Division
Texas Air Control Board
12124 Park 35 Circle
Austin, TX 78753

OR93-178

Dear Mr. Johnson:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, V.T.C.S. article 6252-17a. Your request was assigned ID# 19064.

The Texas Air Control Board (the "board") has received a request for names of all suppliers of alternative fuels used for fuel recycling operations at the Texas Industries Cement Plant in Midlothian, Texas. The request is similar to that addressed in a previous determination of this office, OR92-707, involving the same parties and essentially the same information.

We have considered the exceptions claimed by Texas Industries, Inc. ("TXI") specifically section 3(a)(10), and have reviewed the documents at issue. OR92-707, a copy of which is enclosed, resolves your request.¹ Texas Industries, Inc. has not presented

¹TXI raises additional claims that the requested information is excepted under section 3(a)(4) or in the alternative, that the information is generally not public information within the scope of section 3(a). The purpose of section 3(a)(4) is to protect the interests of governmental bodies and not the interests of private parties that submit information to the government. Open Records Decision No. 592 at 8 (1991). Therefore, section 3(a)(4) does not apply to the information at issue.

Similarly, TXI's argument that the requested information does not fall within the scope of the Open Records Act is not applicable. Virtually all information in the physical possession of a governmental body is subject to the Open Records Act unless it falls within a specific exception under section 3(a). Open Records Decision No. 549 at 4 (1990). Information requested under the Open Records Act is not confidential merely because the entity submitting the information expects or requests that the information remain confidential. Open Records Decision No. 479 (1987). Therefore, even though TXI marked the information confidential when it submitted it to the board, that did not create a presumption of confidentiality under the Open Records Act absent a specific section 3(a) exception.

a *prima facie* case for its argument that the requested information is a trade secret. For this reason, you must release the requested information.²

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR93-178.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Opinion Committee

LRD/KKO/le

Ref.: ID# 19064

Enclosures: Open Records Letter No. 92-707
Submitted Documents

cc: Ms. Sonia Brumeloe
518 South 661
Midlothian, TX 76065
(w/o enclosures)

²The request also asked for information on the location of the suppliers. The board does not have that information and the Open Records Act does not require that the board obtain information not in its possession. Open Records Decision No. 558 (1990).